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11   **UNITED STATES DISTRICT COURT**
             NORTHERN DISTRICT OF CALIFORNIA
12   **SAN JOSE DIVISION**

13 DANA PASQUALE,   ) **4:11-cv-05265-JCS**
)
14   Plaintiff,   ) **JOINT RULE 26(f) REPORT**
)
15   v.   ) **Hon. Joseph C. Spero**
)
16 LAW OFFICES OF NELSON &   )
   KENNARD,   )
17   Defendant.   )
)
18 _____)

19   **JOINT FEDERAL RULE OF CIVIL PROCEDURE**
                  26(f) DISCOVERY PLAN
20
21   Plaintiff, DANA PASQUALE and Defendant, LAW OFFICES OF NELSON &

   KENNARD, by their respective counsel, and pursuant to Federal Rule of Civil Procedure 26(f),
22
   agree to the following Discovery Plan:
23
   FRCP 26(f) Discovery Plan:
24
       1. **Rule 26(a) Disclosures**: Initial disclosures have been made by both parties.
25

                          JOINT 26(f) DISCOVERY PLAN

1. **Synopsis:** Count I of Plaintiff's Complaint, filed on October 28, 2011, is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA). Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, *Cal. Civ. Code §1788 et seq.* (RFDCPA). Plaintiff alleges Defendant used deceptive and misleading representations and claims in connection with the collection of an alleged debt;; and that Defendant failed to disclose in communications that it was a debt collector seeking to collect a debt. Plaintiff has filed an Amended Complaint which included additional violations, however that complaint is under review and may need further amendment.

    Defendant has not filed an Answer to the Amended Complaint and the parties have stipulated and this Honorable Court has granted and extension through August 31, 2012..

    a. **Key legal issues:** Whether Defendant's actions violated the FDCPA and RFDCPA.

    b. **Realistic range of damages:** The FDCPA and RFDCPA entitle Plaintiff to a maximum of $2000.00 in statutory damages. Additionally, the FDCPA and RFDCPA provide for Plaintiff's reasonable attorneys' fees and costs.

    c. **Motions To Amend Pleadings:** Plaintiff has already Amended her pleadings, however Plaintiff reserves the right to seek leave of Court for further amendment should future facts be revealed.

    d. **Discovery plan:** The Parties agree that discovery will need to be conducted regarding the following subjects: any and all communications between Plaintiff and Defendant; and any and all information pertaining to Defendant's Affirmative Defenses. The parties further agree that discovery should not be conducted in phases or limited. The parties anticipate propounding Interrogatories, Requests for Production, Request for Admission, and deposition of Plaintiff. Depending on the information disclosed, Plaintiff may depose the person most knowledgeable

JOINT 26(f) DISCOVERY PLAN

with the facts alleged in Plaintiff's Complaint and the information contained in

Defendant's responses to Plaintiff's discovery requests.

The parties also agree that no changes should be made in the timing, form, or

requirement for disclosures under FRCP 26(a).

Experts: All parties will provide the disclosures required on or before **November 27, 2012**.

Counter-designations of experts will be made on or before **December 31, 2012**.

Expert discovery will be completed by **December 31, 2012**.

 e. **Summary Judgment**: Defendant anticipates the filing of a Motion for Summary Judgment.

 f. **Settlement Discussions:** Parties have discussed the potential for settlement in the present matter and will continue to do so in good faith.

 g. **Time required:** Parties do not anticipate the case requiring more than three days for trial.

 h. **Scheduling:** The parties propose the following cut-off dates:

Fact discovery be **December 31, 2012**;

Last day for the Court to hear dispositive motions be **February 1, 2013**;

The Pretrial Conference be held in **April 2013**; and

Trial in **May of 2013**.

1. **TRIAL:**

Both parties have requested a trial by jury.

The parties estimate that this case will take approximately 2 days for trial.

It is anticipated that the case will be ready for trial by **May of 2013**..

i. **Other Issues:** Defendant is currently reviewing its file to determine whether a motion to compel binding arbitration is appropriate. That motion, if determined to be appropriate will be brought within 60 days. Defendant is also considering a Rule 12 motion challenging Plaintiff's ability to state a claim under the Rosenthal as stated in its second claim for relief.

j. **Magistrate Judge:** Plaintiff objects to a United States Magistrate Judge for a settlement conference.

RESPECTFULLY SUBMITTED,

DATED: July 26, 2012   KROHN & MOSS, LTD.

By: /s/ Ryan Lee
Ryan Lee
Attorney for Plaintiff

RESPECTFULLY SUBMITTED,

DATED: July 26, 2012   NELSON & KENNARD

By: /s/Robert Scott Kennard
Robert Scott Kennard

By: /s/ Clifton Inohara
Clifton Inohara
Attorneys for Defendant